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CHAPTER VIIDISCIPLINE701 PRISONER/AWARDEE DISCIPLINE

1. Discipline for prisoners/awardees shall be as provided by section 5101 of reference (a). Discipline, not harshness, is the heart of the correctional process. Since the vast majority of prisoners and all awardees assigned to the waterfront brig/CCU will be returning to duty upon completion of their sentence, nowhere is this concept more important than in the waterfront brig/CCU. Persons returning to duty can serve satisfactorily only if they are able to conduct themselves in a disciplined manner. Most prisoners and awardees in a waterfront brig/CCU are young and in trouble due to a lack of self-discipline.

2. Prisoners/awardees are expected to comply with all brig rules and regulations and will be made fully aware that any attempt to circumvent regulations will result in disciplinary action.

702 ADMINISTRATIVE DISCIPLINARY PROCEDURES

1. The brig officer, when a commissioned officer, may impose punishment on prisoners and awardees. Actions taken in connection with administrative disciplinary procedures do not preclude trial by court martial or nonjudicial punishment under Article 15, UCMJ for the same offense.

2. The rules of the waterfront brig/CCU must be enforced in a just and impartial manner. Rule violations must never be ignored or condoned. Minor violations should be dealt with on the spot by staff members.

3. Spot reports may be used to record episodes of unacceptable behavior; no inference should be drawn, however, that every minor incident must be put in writing. Normally, simply calling an individual aside and explaining why the behavior is unacceptable should suffice.

4. Disciplinary reports should be reserved for serious offenses or to interrupt a pattern of unacceptable behavior, such as a series of minor infractions in a short period of time. Excessive use of disciplinary reports reduces their effectiveness. The following procedures will be followed when a disciplinary report is submitted:

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a. The staff member submitting the report shall inform the prisoner/awardee of the nature of the charge or allegation of which the individual is accused at the time of the offense. The NAVPERS 1640/9, Disciplinary Report shall be used in reporting the offense(s). Contraband or other evidence substantiating the charge is to be submitted with the disciplinary report.

b. The disciplinary report will contain sufficient information to identify the offender; the nature of the offense; the date, time, and place of the offense; and the names of witnesses, if any.

c. The brig officer will appoint an impartial staff member (one who was not involved in the offense or the staff member who made the decision to charge) to conduct an informal investigation of the offense.

d. Prisoners or awardees who are on report may make a statement in their own behalf, after being warned in compliance with Article 31, UCMJ and RCM 305. The prisoner or awardee is entitled to have an attorney present, if requested.

e. Prisoners or awardees who are on report have a right to consult with counsel. However, consulting with counsel does not necessarily mean a face to face meeting with counsel. The consultation can be accomplished through a telephone call and should not entail unnecessarily long delay of required hearings.

f. Prisoners or awardees who are on report will have the above rights explained to them and will sign a statement that such rights have been explained and whether they desire to waive their rights and respond to questions.

g. Upon completion of the informal investigation, the disciplinary report will be forwarded to the Discipline and Adjustment Board Chairperson for a hearing. A hearing will be conducted no earlier than 24 hours after the prisoner or awardee has been notified of offenses with which charged, unless a prisoner or awardee waives this 24 hour period and requests an immediate hearing; any such request will be documented [for function and composition of Disciplinary and Adjustment Board see section 1201.b].

h. Prisoners/awardees shall appear in person at the hearing and shall be allowed to make statements in their own behalf, if they so desire.

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- i. Prisoners/awardees will be allowed to call witnesses in their behalf to present relevant testimony, unless a specific finding has been made by the chairperson of the Discipline and Adjustment Board that the calling of such witnesses would adversely affect security and/or good order in the brig. Prisoners/awardees do not have the right to cross-examine witnesses.
- j. Prisoners/awardees will be allowed to present documentary evidence in their defense.
- k. There is no prisoners/awardees right to have counsel present at the Discipline and Adjustment Board hearing.
- l. The Discipline and Adjustment Board hearing is not a criminal trial, it is an administrative proceeding. Its purpose is to determine whether an offense was committed and to recommend punishment, if appropriate. Such punishment is primarily corrective in nature, designed for minor misconduct in a nonjudicial forum. As such, the standard of proof by which facts must be established is by a "preponderance of evidence" rather than "beyond a reasonable doubt", as it is at a court martial.
- m. If the Discipline and Adjustment Board finds that the prisoner/awardee committed the offense charged, the Board will recommend appropriate punishment to be awarded. The recommended punishment will be agreed to by a majority of the members of the Discipline and Adjustment Board; no member will have more authority to recommend punishment than any other member, including the chairperson.
- n. The Disciplinary Report, with a written statement by the Chairperson of the Discipline and Adjustment Board that delineates the evidence relied upon and the reasons for the findings and recommended punishment, shall be forwarded to the brig officer, along with any other material considered pertinent to the offense and the prisoner/awardee waterfront brig/CCU file for review.
- o. The brig officer will either approve or disapprove the findings of the Disciplinary and Adjustment Board and approve or amend the punishment recommended by the Disciplinary and Adjustment Board. The decision of the brig officer as to the punishment to be awarded is final, subject to requirements of Section 703, below.
- p. The completed NAVPERS 1640/9, Disciplinary Report shall be filed in the prisoner/awardee file.

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703 AUTHORIZED ADMINISTRATIVE DISCIPLINARY MEASURES

1. The brig officer, when a commissioned officer, may impose one or more of the administrative disciplinary measures on prisoners or detainees due to misconduct:

a. Administrative reprimand or warning.

b. Loss of Privileges. The privileges subject to deprivation by disciplinary action are those established to encourage good conduct. However, attendance at religious services, receiving visitors, correspondence and smoking shall not be deprived unless the misconduct is directly related to these privileges and deprivation is necessary.

c. Extra Duty. Extra duty shall not conflict with regular meals, regular sleeping hours, attendance at scheduled religious services, or interviews with authorized persons (i.e., medical officer, chaplain, legal counsel, etc.) or with regular visiting hours. Extra duty shall be limited to 2 hours per day for a maximum of 14 consecutive days and shall consist of constructive and useful work. Extra duty shall not be served on Sundays and holidays, although these days count towards completion of the extra duty requirement imposed. The use of calisthenics and close order drill for extra duty, as a type of punishment for any infraction, is prohibited.

d. Forfeiture of Good Conduct Time (GCT). Any or all of the prisoners good conduct time earned up to and including the month in which of the offense occurred may be forfeited. For computation purposes, prisoners earn good conduct from the date confinement begins to run and each subsequent month's GCT earnings begin on that anniversary date. GCT forfeitures or loss are based on days actually earned, not on the calendar name of the month in which the offense occurs. GCT days not yet earned cannot be taken. Except for time forfeited for parole or probation violation, the brig officer when a commissioned officer, may subsequently restore good conduct time forfeited by any brig officer. Forfeitures resulting from an escape will not be restored. Suspension of good conduct time for a probationary period is authorized.

e. Disciplinary Segregation. Disciplinary segregation is the most stringent of the administrative disciplinary actions authorized and should be imposed only in serious cases. Medical certification is required prior to imposition of disciplinary segregation under Article 10101 of reference (a).

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(1) Disciplinary segregation shall be served in a single occupancy cell where the prisoner cannot communicate with unauthorized personnel and most privileges are denied. Prisoners serving disciplinary segregation should remain in their cells except for emergencies and except as specified below. They shall not be taken out to attend religious services. Observance of denominational requirements, if available, shall be provided in the cells, if appropriate. Prisoners in disciplinary segregation shall not participate in recreational activities.

(2) Prisoners in disciplinary segregation shall be permitted to receive mail, write letters and, at the discretion of the brig officer, to receive personal visitors. Official visits shall be permitted at the brig and shall normally be conducted in the cell.

(3) Meals will be served in the cell.

(4) A 1 hour exercise period should be granted daily, provided the prisoner's behavior is satisfactory.

(5) Shower privileges should also be granted daily if the prisoner's behavior is satisfactory.

(6) Under no circumstances will a prisoner in disciplinary segregation be precluded from corresponding or consulting with counsel.

(7) Disciplinary segregation should not be ordered for a fixed period of time and should be terminated when brig officer believes the prisoner has demonstrated that segregation has served its purpose. The duration of confinement in disciplinary segregation shall be determined by, and takes into account, any improvement in the prisoner's conduct and attitude.

(8) The brig officer, or other designated officer, and a member of the medical staff shall visit each prisoner in disciplinary segregation daily. On weekends and holidays this visit may be made by the brig duty officer or a staff member designated by the brig officer. All visits to prisoners in disciplinary segregation shall be recorded on the DD 509. Official visitors to prisoners in disciplinary segregation may recommend a change in status to the brig officer when they consider that disciplinary segregation has served its purpose. However, the brig officer will make the final determination as to when disciplinary segregation will be terminated.

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(9) A DD 509 will be maintained adjacent to each prisoner's cell in disciplinary segregation. Prisoners/detainees shall be sighted at least every 30 minutes by a staff member and more often when it is deemed necessary for the welfare of the prisoner/detainee (e.g., constant sighting is necessary for suicide risks, with 15 minute notations on the DD 509, etc.).

(10) Prisoners released from disciplinary segregation will normally be placed in medium-in custody status.

f. Special Diet. Special diet may be imposed in conjunction with disciplinary segregation. Special diet should only be imposed when it can be expected to have a positive effect and not as a routine adjunct to disciplinary segregation. Certification by a medical officer prior to imposing special diet is required to document that this additional discipline is not expected to adversely effect the prisoner's health. The mess supervisor will document the amount of calories for each meal and the documentation will be filed in the prisoner's file. If imposed, special diet will consist of three meals daily to include reduced and balanced portions of all items in the daily ration prepared and served to other prisoners, but not less than 2100 calories daily. All items of the regular daily ration will be included except sweets and desserts. Water will be the only drink provided. Normal standards of preparation and service of food will be maintained. Special diet may not exceed 15 consecutive days. Consecutive periods of special diet (15 days on, 1 day off, 15 days on, etc.) is not authorized for a single disciplinary hearing. Termination of disciplinary segregation automatically terminates special diet; however, termination of special diet does not automatically terminate disciplinary segregation.

2. The brig officer, when a commissioned officer, may impose one or more of the following disciplinary measures on an awardee for misconduct:

a. Nonpunitive reprimand or warning.

b. Loss of Privileges. The privileges subject to deprivation by disciplinary action are those established to encourage good conduct. However, attendance at religious services and receiving visitors or correspondence or smoking shall not be deprived unless the misconduct is directly related to those privileges and restriction is necessary.

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c. Extra Duty. Extra duty shall not conflict with regular meals, regular sleeping hours, attendance at scheduled religious services or interviews with authorized persons (i.e., medical officer, chaplain, legal counsel, etc.) or with regular visiting hours. Extra duty shall be limited to 2 hours per day for a maximum of 14 consecutive days and shall consist of constructive and useful work. Extra duty shall not be served on Sunday or holidays, although these days count towards completion of the requirement imposed. The use of calisthenics and close order drill for extra duty, or as a type of punishment for any infraction, is prohibited.

3. In waterfront brigs/CCU's that have a Master Chief Petty Officer in Charge (MCPPOIC) as the senior billet, or when the commanding officer/officer in charge is absent and no other officer is attached or assigned to the waterfront brig/CCU, the administrative disciplinary measures outlined above may only be imposed or terminated by the commanding officer of the station where the waterfront brig/CCU is located and will not be delegated. In such cases, the MCPPOIC or the senior civilian/enlisted person assigned to the brig will forward the NAVPERS 1640/9 along with recommendations to the commanding officer.

4. Regardless of the administrative disciplinary measures imposed according to the foregoing, prisoners and awardees may be recommended for punishment under Article 15 or by court-martial, when appropriate. If such action is taken, a NAVPERS 1626/7, Report and Disposition of Offense(s) shall be completed and in the case of prisoners forwarded to the commanding officer/officer in charge of the Transient Personnel Unit or the commanding officer of the station where the brig is located for action. In the case of awardees, the NAVPERS 1626/7 shall be forwarded for action to the awardee's parent commanding officer or the commanding officer of the station where the waterfront brig/CCU is located, as appropriate.

5. Extra military instruction may be imposed under the provisions outlined in the Manual of the Judge Advocate of the Navy.

6. The Discipline and Adjustment Board shall be chaired by the senior civilian assigned to the waterfront brig/CCU. A minimum of two additional brig staff shall comprise the remainder of this board, either enlisted or civilian, but they will not have been involved with the incident which resulted in the report being submitted in any manner.

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704 PERSONAL APPEARANCE

1. Prisoners and awardees shall be clean, neat and well-groomed at all times.
2. Prisoners and awardees shall wear their service uniforms in the manner prescribed.
3. Prisoners and awardees shall wear their hair following the current grooming standards of the prisoner's service.